FARAD CONTINUTION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No l6 of 2005
with
Civil appln no. 35 of 2004
in
Review appln St no. 9606 of 2004
in
S A No. 35l of l985

Office Notes,Office Memorandum of Coram appearence,Court's Orders & Directors and Registrar's Order	Court or Judge's Order

Mr Umesh Mankapure for applicants

CORAM; A.M.KHANWILKAR J.

DATED 24.l.2006

P.C.

. The former application is for recalling the order dated 4.8.2004. The order dated 4.8.2004 was passed in Civil Application No. 35 of 2004,which in turn prayed for setting aside the exparte order passed on 4.7.2002 in Second Appeal No. 35l of l985. There was delay of one year and 2l8 days in filing the said application. The delay as explained

was not accepted by me in the order dated 4.8.2004.

2. The principal reason mentioned in the order is that the applicants were duly served with court service notice after their advocate was elevated to the Bench. The applicants did not make necessary arrangement to espouse their case. Now it transpires, as is accepted by the office of this court, that the court service notice was never served on the applicants and such report has been now placed on record by the office. In other words the basis on which the order dated 4.8.2004 came to be passed was a non existent ground. That order cannot be allowed to stand and same will have to be recalled. Respondents have been duly served. None appears for the respondents. For the reasons already mentioned earlier, in the the interest of justice both applications will have to be allowed in terms of prayer clauses (a) and (b). Review application be registered and placed

for hearing on 2l.3.2006. The applicants to serve the respondents with the review application before the returnable date.

3. In addition, the applicants shall serve the respondents by advocate’s notice, either personally or by courier/speed post/ e-mail/fax and file an affidavit of service before the returnable date.